

13 C.J.S. Carriers § 313

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Carriers

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XXI. Regulation and Control Under State Law

B. License or Certificate

1. In General

§ 313. Requirement and nature of license or certificate

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#)  8

An entity may be required to obtain a license or certificate in order to operate as a carrier.

In order to operate as a carrier, an entity may be required to obtain a license or certificate.¹ No certificate is required for the hauling of material which does not constitute property,² such as valueless abandoned material.³ Where transportation is merely incidental to the primary function of a business, the business is not a common carrier subject to the jurisdiction of an administrative body to issue a certificate.⁴

A certificate is a privilege⁵ and is not a contract or property interest under which the holder acquires vested rights.⁶ A certificate is not property in the ordinary sense but rather is a license.⁷ A certificate of public convenience issued by a public utilities commission does not guarantee the security of the common carrier's investment, and it does not grant the common carrier a monopoly.⁸ A certificate of public convenience issued to a common carrier does not trump the rights of other persons with an interest in how the common carrier operates.⁹

An applicant for a carrier license is not entitled to have his or her application considered initially in a judicial hearing where an administrative body has been given the authority to make the initial determination as to whether to grant the license.¹⁰

Carrier engaged exclusively in interstate commerce.

A state may not require a certificate from a carrier engaged exclusively in interstate commerce in order for it to operate within the state's borders.¹¹

Temporary license.

A carrier may receive a temporary license.¹² A temporary license need not precisely mirror the entire permanent license request but must at least correspond to a portion of the pending request for a permanent license.¹³

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Footnotes

- 1 Ind.—[Mason Metals Co., Inc. v. Indiana Dept. of State Revenue](#), 590 N.E.2d 672 (Ind. Tax Ct. 1992).
N.H.—[Appeal of Global Moving & Storage of New Hampshire, Inc.](#), 122 N.H. 784, 451 A.2d 167 (1982).
Common carrier pipeline
Without a certificate being granted, a common carrier pipeline may not commence operations.
Ill.—[Quantum Pipeline Co. v. Illinois Commerce Com'n](#), 304 IllApp 3d 310, 237 Ill. Dec. 481, 709 N.E.2d 950 (3d Dist. 1999).
- 2 Tex.—[Moore Indus. Disposal, Inc. v. City of Garland](#), 587 S.W.2d 430 (Tex. Civ. App. Dallas 1979), writ refused n.r.e., (Nov. 21, 1979).
- 3 Tex.—[Moore Indus. Disposal, Inc. v. City of Garland](#), 587 S.W.2d 430 (Tex. Civ. App. Dallas 1979), writ refused n.r.e., (Nov. 21, 1979).
- 4 Pa.—[Society Hill Carriage Co. v. Pennsylvania Public Utility Com'n](#), 135 Pa. Commw. 538, 581 A.2d 702 (1990) (businesses that provided transportation by horse-drawn carriages were not "common carriers" subject to the jurisdiction of the public utility commission to issue certificates of public convenience where transportation was merely incidental to the primary function of entertaining passengers).
- 5 Pa.—[Fiore v. Com.](#), 668 A.2d 1210 (Pa. Commw. Ct. 1995).
- 6 Pa.—[Com., Pennsylvania Public Utility Commission v. Zanella Transit, Inc.](#), 53 Pa. Commw. 359, 417 A.2d 860 (1980).
- 7 Neb.—[Saathoff v. JBH & Associates, Inc.](#), 203 Neb. 356, 278 N.W.2d 762 (1979).
- 8 Pa.—[Susquehanna Area Regional Airport Authority v. Pennsylvania Public Utility Com'n](#), 911 A.2d 612 (Pa. Commw. Ct. 2006).
- 9 Pa.—[Susquehanna Area Regional Airport Authority v. Pennsylvania Public Utility Com'n](#), 911 A.2d 612 (Pa. Commw. Ct. 2006).
- 10 N.D.—[Eckre v. Public Service Commission](#), 247 N.W.2d 656 (N.D. 1976).
- 11 U.S.—[Medigen of Kentucky, Inc. v. Public Service Com'n of West Virginia](#), 787 F. Supp. 590 (S.D. W. Va. 1991), judgment aff'd, 985 F.2d 164, 24 Fed. R. Serv. 3d 1268 (4th Cir. 1993).
- 12 Pa.—[Brink's Inc. v. Pennsylvania Public Utility Com'n](#), 76 Pa. Commw. 496, 464 A.2d 639 (1983).
- 13 Pa.—[Brink's Inc. v. Pennsylvania Public Utility Com'n](#), 76 Pa. Commw. 496, 464 A.2d 639 (1983).

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